

**Remarks/Arguments:**

Claims 1-23 are pending and stand rejected.

By this Amendment, claims 1, 3-11, 13-18 and 20-23 are amended and claim 2 is cancelled without prejudice.

No new matter is added by the claim amendment. Support for the claim amendments can be found throughout the original specification and, for example, in original claim 2.

**Claim Objections**

In the Office Action, at item 3, claim 22 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claim 22 has been amended to overcome this objection.

Reconsideration is respectfully requested.

In the Office Action, at item 4, claim 5 is objected to because of a typographical error therein.

Claim 5 has been amended to overcome this objection.

Reconsideration is respectfully requested.

**Rejection of Claim 22 under 35 U.S.C. § 101.**

In the Office Action, at item 6, claim 22 is rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

Applicants have amended claim 22 to be directed to a program stored on a computer-readable medium for making a computer:

act as the transmission time measuring means ...

act as the reference time storage means ...

act as the transmitting-side authentication means ... and

act as the authentication count means ...

That is, a program is stored on a computer-readable medium for making the computer act. MPEP §2106.01 states that functional descriptive material "consists of data structures and computer programs which impart functionality when employed as a computer component ... When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive to be realized."

Accordingly, it is submitted that claim 22 is directed to statutory subject matter.

Applicants respectfully request withdrawal of this rejection.

**Rejection of Claims 8, 10-11 and 15-16 under 35 U.S.C. § 112, second paragraph.**

In the Office Action, at item 8, claims 8, 10-11 and 15-16 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite.

Claims 8, 10-11 and 15-16 have been amended to overcome this rejection.

Reconsideration is respectfully requested.

**Rejection of Claims 1 and 21 under 35 U.S.C. § 102(e).**

In the Office Action, at item 10, claims 1 and 21 are rejected under 35 U.S.C. § 102(e) as being anticipated by Terranova, et al. (US Patent No. 6,868,434, hereafter referred to as Terranova).

Reconsideration is respectfully requested.

Claim 1 is directed to a data use management system, and recites:

said transmitting apparatus compares the authentication count with a maximum authentication count determined in advance with respect to each of the ranges of transmission time, and inhibits further authentication if the authentication count is larger than the maximum authentication count.

That is, a maximum authentication count is determined in advance for each of the ranges of transmission time and the transmitting apparatus compares the authentication count with a maximum authentication count and inhibits further authentication if the authentication count is larger than the maximum authentication count.

#### **Terranova Reference**

In the Office Action, at page 5, the Examiner acknowledges that "Terranova does not explicitly disclose authentication count means of incrementing the authentication count which is the number of instances performed by the transmitting-side authentication means; and the management function of comparing the authentication count with a maximum authentication count determined in advance with respect to each of the ranges of transmission time, and inhibiting further authentication if the authentication is larger than the maximum authentication count."

Accordingly, claim 1 patentably distinguishes over Terranova for the above-mentioned reasons.

#### **Claim 21**

Claim 21 is directed to a data use management method, and recites:

when transmitting data via a network from a transmitting apparatus to at least one receiving apparatus connected to the network and capable of receiving and using the data, permitting access to the data by the at least one receiving apparatus via the network based on a transmitting time for transmission of predetermined information between the transmitting apparatus and said receiving apparatus exceeding one value.

That is, the at least one receiving apparatus is permitted access to the data based on a transmission time for transmission of predetermined information between the transmitting apparatus and the receiving apparatus.

#### **Terranova Reference**

Terranova discloses a system and method for testing server latency using multiple concurrent users in a computer system. Terranova further discloses that latency values measured using a test program may represent a first time portion that corresponds to the amount of time to perform a given access to a file and a second time portion that corresponds to the server verifying that the user has permission to access the file. (See Terranova at column 4, lines 6-12.) That is, Terranova teaches a method for measuring server latency. The server latency in Terranova includes two portions. The second portion is the time required to verify that the user has permission to access the particular file. Terranova, however, is silent regarding the use of a measured transmission time to determine whether a receiving apparatus has permission to use data on the network. More particularly, in Terranova, a file opened may be authorized using an access token. Each file 1010 of Terranova has a corresponding file access control list (ACL) 1000. File ACL 1000 may point to data structure 1020 that list the permissions of each user to file 1010. For example, user 0 has read permission, user 1 has read/write permission and user 2 has no permission. Thus, Terranova discloses that permission to access data is based on read/write permission in a file access control list 1000, and in particular, is not based on "a transmission time for transmission of predetermined information between the transmitting apparatus and the receiving apparatus," as required by claim 21.

Accordingly, it is submitted that claim 21 patentably distinguishes over Terranova for at least the above-mentioned reasons.

**Rejection of Claims 2-20, 22 and 23 under 35 U.S.C. 103(a)**

In the Office Action, at item 12, claims 2-20, 22 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Terranova in view of Conte et al. (US Patent No. 5,845,065, hereafter referred to as Conte).

Reconsideration is respectfully requested.

**Claim 2**

Claim 2 has been cancelled without prejudice. Accordingly, the rejection of claim 2 is now moot.

**Claim 3**

Claim 3, which includes similar but not identical features to those of claim 1, is submitted to patentably distinguish over Terranova for at least similar reasons to those of claim 1. More particularly, claim 3 includes the feature of transmitting-side authentication means of "determining, based on which one of the plurality arranges the measured transmission time belongs, whether or not said receiving apparatus having the corresponding measured transmission time is permitted to use the data."

**Conte Reference**

The addition of Conte does not overcome the deficiencies of Terranova. This is because, Conte does not disclose or suggest transmitting-side authentication means of "determining, based on which one of the plurality arranges the measured transmission time belongs, whether or not said receiving apparatus having the corresponding measured transmission time is permitted to use the data" and, furthermore, "a management function of comparing the incremented authentication count with a maximum authentication count determined in advance with respect to each of the plurality of ranges, and inhibiting further authorization if the incremented authentication count is larger than the maximum authentication count," as required by claim 3. This is because, Conte, which discloses the use of a network license compliance apparatus, is silent regarding anything related to measured transmission times and, more particularly, the determination of whether the use of data is permitted based on which one of a plurality of ranges the measured transmission

time belongs. Furthermore, Conte is silent regarding a maximum authentication count that is determined in advance with respect to each of the plurality of ranges. Instead, Conte teaches that licenses are assigned to users as each user requests a launch of an application. In Conte, when a user (the requesting user) requests a launch of an application, if there are no unassigned licenses for the requested application, the system will attempt to reassign or swap existing license assignments in order to free up the license for the requested application. That is, for example, Conte does not contemplate anything relating to measured transmission time.

Accordingly, it is submitted that claim 3 patentably distinguishes over Terranova in view of Conte for at least the above-mentioned reasons.

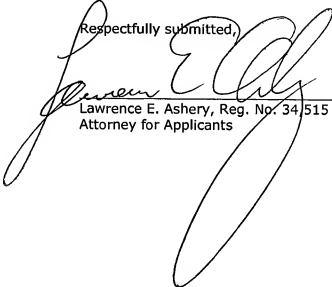
**Claims 4-20 and 22-23**

Claims 4-20 and 22-23, which include all of the limitations of claim 3, are submitted to patentably distinguish over Terranova in view of Conte for at least the same reasons as claim 3.

**Conclusion**

In view of the claim amendments and remarks, Applicants submit the application as in condition for allowance which action is respectfully requested.

Respectfully submitted,



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